

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

**Richard J. Klein,
Petitioner**

-vs-

Case No. 1:01-cv-794

**Harold Carter,
Respondent**

JUDGMENT

Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

X Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that: the Report & Recommendation is ADOPTED. Petitioner's petition for writ of habeas corpus is DENIED with prejudice. The Court hereby **CERTIFIES** the appealability of the dismissal of all claims for relief with the exceptions of grounds, two, three, and fifteen because "jurists of reason would find it debatable whether this Court is correct in its procedural rulings." See Slack v. McDaniel, 529 U.S. 473, 484-85 (2000). A certificate of appealability shall not issue with respect to Petitioner's grounds two, three, and fifteen because Petitioner has failed to make a substantial showing of the denial of a constitutional right that is remediable in this proceeding. See 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b). Petitioner has not shown that reasonable jurists could debate whether these claims should have been resolved in a different manner or that the issue presented was "adequate to deserve encouragement to proceed further." Miller-El v. Cockrell, __ U.S. __, 123 S.Ct. 1029, 1034, 1039-40 (2003)(quoting Slack, 529 U.S. at 483-840)(in turn quoting Barefoot v. Estelle, 463 U.S. 880, 893 n.4 (1983)).

This Court further **CERTIFIES**, pursuant to 28 U.S.C. § 1915(a)(5), that an appeal of this Order would not be taken in good faith and therefore **DENIES** Petitioner leave to appeal *in forma pauperis*. See Fed. R. App. P. 24(a); Kincade v. Sparkman, 117 F.3d 949, 952 (6th Cir. 1997).

Date: June 27, 2005

James Bonini, Clerk

By: s/Mary C. Brown
Mary C. Brown, Deputy Clerk